

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION

ORDER TO ISSUE THIRD PARTY SUBPOENA

Plaintiff James Hairston, an inmate at the Hardeman County Correctional Facility (“HCCF”), in Whiteville, Tennessee, filed a pro se complaint pursuant to 42 U.S.C. § 1983. On February 20, 2015, the court ordered service of process on Defendants Ben Benjamin, Alicia Cox, and Kristie Howell. The summons for Kristie Howell has been returned as unexecuted because she is on maternity leave [DE# 23].

When an indigent plaintiff has taken reasonable steps to identify and locate a defendant, the court is responsible for ensuring that service is properly effected:

[Twenty-eight] U.S.C. § 1915(c) provides that the officers of the court “shall issue and serve all process” when a plaintiff is proceeding *in forma pauperis*. Fed. R. Civ. P. 4(c)(2) dovetails with § 1915(c) by providing that the court must appoint a United States Marshal to serve plaintiff’s process “when the plaintiff is authorized to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915.” Together, Rule 4(c)(2) and 28 U.S.C. § 1915(c) stand for the proposition that when a plaintiff is proceeding *in forma pauperis* the court is obligated to issue plaintiff’s process to a United States Marshal who must in turn effectuate service upon the defendants, thereby relieving a plaintiff of the

burden to serve process once reasonable steps have been taken to identify for the court the defendants named in the complaint.

Byrd v. Stone, 94 F.3d 217, 219 (6th Cir. 1996). In the present case, Plaintiff has sufficiently identified Defendant Howell. However, because of her maternity leave, she cannot be served with process at HCCF.

The court hereby DIRECTS the Clerk to prepare a third-party subpoena for CCA and deliver it to the Marshal for service, along with a copy of this order. The subpoena shall direct Corrections Corporation of America, 10 Burton Hill Blvd., Nashville, TN 37215 to supply the last known home address and telephone number of **Defendant Kristie Howell**, who was employed at HCCF on or about February 11, 2014, and thereafter. This information should be provided on or before **May 1, 2015**. Due to security and privacy concerns, information provided by CCA in compliance with the subpoena shall not be made available to Plaintiff, but shall be filed by the Clerk *ex parte* and under seal. A summons shall then be re-issued and provided to the Marshal for service.

IT IS SO ORDERED.

s/ James D. Todd
JAMES D. TODD
UNITED STATES DISTRICT JUDGE